

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty 4398-286

Dkt.

C# M#

GING et al.

TC/A.U. 3743

Serial No. 10/781,949

Examiner: Nihir B. Patel

Filed: February 20, 2004

Date: January 3, 2007

Title: NASAL MASK ASSEMBLY



Handwritten signature/initials

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

Fees are attached as calculated below:

Total effective claims after amendment 26 minus highest number
previously paid for 26 (at least 20) = 0 x \$50.00 \$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment 5 minus highest number
previously paid for 5 (at least 3) = 0 x \$200.00 \$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add
\$360.00 (1203)/\$180.00 (2203) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s)

One Month Extension \$120.00 (1251)/\$60.00 (2251)
Two Month Extensions \$450.00 (1252)/\$225.00 (2252)
Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)
Four Month Extensions \$1590.00 (1254)/\$795.00 (2254)
Five Month Extensions \$2160.00 (1255)/\$1080.00 (2255) \$ 120.00

Terminal disclaimer enclosed, add \$130.00 (1814)/\$65.00 (2814) \$

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$ 0.00

Assignment Recording Fee \$40.00 (8021) \$ 0.00

Other: \$ 0.00

TOTAL FEE ENCLOSED \$ 120.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

901 North Glebe Road, 11th Floor
Arlington, Virginia 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
PTB:jck

NIXON & VANDERHYE P.C.
By Atty: Paul T. Bowen, Reg. No. 38,009

Signature: _____

Handwritten signature of Paul T. Bowen



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

GING et al.

Atty. Ref.: 4398-286; Confirmation No. 9703

Appl. No. 10/781,949

TC/A.U. 3743

Filed: February 20, 2004

Examiner: Nihir B.Patel

For: NASAL MASK ASSEMBLY

* * * * *

January 3, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION/ELECTION OF SPECIES REQUIREMENT

In response to the Restriction Requirement, Applicants hereby elect the invention of Group II, including claims 7-13 and 19-27, drawn to a cushion apparatus. Further, in response to the Election of Species Requirement, Applicants elect Species 1, including Figures 12-19. Claims 7-13 and 19-27 read on the cushion shown in Figures 12-19 and described in the present specification.

This election is being made with traverse. The Applicants are extremely disappointed at receiving a Restriction and Election of Species Requirement at this late time in prosecution, especially as the original claims were directed to headgear and cushion claims that have been examined through three Office Actions. In addition, the Examiner has indicated some of the claims to be allowable, and during a personal interview conducted in August, 2006, the

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Examiner and his then-Supervisor agreed that the amendments presented would overcome the prior art rejections, subject to further search.

Moreover, at least claims 1 and 4-6 should be rejoined since they were previously indicated to be allowed and thus, there is no additional burden in maintaining claims 1 and 4-6 in the present application.


In addition, there are also a number of technical errors in the restriction which makes it improper. For example, the claims are not directed to a combination sub-combination. In addition, several of the independent species are not separate species, e.g., since Figures 9-11c should be grouped with Figures 6-8 (strap and yoke, respectively) and "Species 3" of the headgear is actually a frame. In addition, the Examiner has failed to recognize that generic claims are present.

Accordingly, withdrawal of the Restriction Requirement and withdrawal of the Election of Species Requirement are respectfully requested. Furthermore, complete examination of all of the claims pending is respectfully requested especially in view of the agreement reached in August, 2006 during the personal interview with the Examiner and his Supervisor.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


Paul T. Bowen
Reg. No. 38,009

PTB:jck
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100